

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

# PCT

To:

see form PCT/ISA/220

## WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing

(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference  
see form PCT/ISA/220

**FOR FURTHER ACTION**  
See paragraph 2 below

International application No.  
PCT/GB2004/005039

International filing date (day/month/year)  
30.11.2004

Priority date (day/month/year)  
16.12.2003

International Patent Classification (IPC) or both national classification and IPC  
A61M16/10

Applicant  
SMITHS GROUP PLC

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

10/579200  
IAP9 Rec'd PCT/PTO 12 MAY 2006  
International application No.  
PCT/GB2004/005039

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**Box No. I Basis of the opinion**

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1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
  - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
  - a. type of material:
    - ☐ a sequence listing
    - ☐ table(s) related to the sequence listing
  - b. format of material:
    - ☐ in written format
    - ☐ in computer readable form
  - c. time of filing/furnishing:
    - ☐ contained in the international application as filed.
    - ☐ filed together with the international application in computer readable form.
    - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/GB2004/005039

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**Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

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**1. Statement**

Novelty (N)	Yes: Claims	2,4,5,8,9
	No: Claims	1,3,6,7,10
Inventive step (IS)	Yes: Claims	2,4,5
	No: Claims	1,3,6-10
Industrial applicability (IA)	Yes: Claims	1-10
	No: Claims	

**2. Citations and explanations**

**see separate sheet**

**1 Concerning Item V**

- 1.1 WO-A-99/60954 (D1) discloses a gas treatment device for use with a tracheostomy tube, the device including a housing (15), a gas treatment unit (16) mounted within the housing. The gas treatment unit (16) can be displaced by depressing the housing so as to block the gas passage as defined in the characterizing portion. Thus, the subject-matter of claim 1 does not meet the requirement of Article 33(2) PCT.
- 1.2 In addition, the technical features of the dependent claims 3, 6, 7 and 10 appear to be disclosed by D1. Thus, said claims do not meet the requirement of Article 33(2) PCT.
- 1.3 The technical features of claims 8 and 9 appear to relate a minor constructional change and/or to one of several straightforward possibilities from which the skilled person would select, in accordance with circumstances, without the exercise of inventive skill, in order to solve the problem posed. Thus, said claims do not meet the requirement of Article 33(3) PCT.
- 1.4 The technical features of the remaining dependent claims 2, 4 and 5 do not appear to be derivable from any of the cited documents in an obvious manner.
- 1.5 The industrial applicability (Article 33(4) PCT) of a device according to the claims 1-10 is self-evident.